

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

Michael Gonzalez,

Plaintiff,

- against -

Hill & Sons Pest Management Inc.
and Mark Hill,

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

No. 21-cv-1736 (KAM) (MMH)

-----X

KIYO A. MATSUMOTO, United States District Judge:

Michael Gonzalez commenced this action against Hill & Sons Pest Management Inc. ("Hill & Sons") and Mark Hill, pressing claims based on the Fair Labor Standards Act ("FLSA") and New York Labor Law ("NYLL"). (ECF No. 1, Compl.) Gonzalez has moved the Court to approve the parties' settlement agreement in accordance with *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015). The Court referred the motion to Magistrate Judge Henry for a Report and Recommendation. (Order Referring Mot., Oct. 5, 2023.)

Magistrate Judge Henry has issued a thorough and well-reasoned Report and Recommendation to grant the motion, concluding that the proposed settlement reflects a reasonable compromise based on the totality of the circumstances. (R&R, Feb. 28, 2024.) The Report and Recommendation notified the

parties of their right to file written objections within fourteen days from service via ECF and that failure to file timely objections would operate as a waiver of such objections in this Court and on appeal. (*Id.*) The deadline to object has expired, and no party has filed any objections.

In reviewing a report and recommendation, the district court may accept, reject, or modify its findings and recommendations in whole or in part. 28 U.S.C. § 636(b)(1)(C). If no timely objection is filed, the district court “need only satisfy itself that there is no clear error on the face of the record.” *May v. Levy*, 659 F. Supp. 3d 323, 332 (E.D.N.Y. 2023) (quoting *Minto v. Molloy Coll.*, No. 16-cv-276 (KAM), 2021 WL 804386, at *1 (E.D.N.Y. Mar. 3, 2020)).


After a careful review of Magistrate Judge Henry’s thorough, well-reasoned Report and Recommendation, the Court finds no clear error and thus affirms and adopts the Report and Recommendation in its entirety as the opinion of the Court. See 28 U.S.C. § 636(b)(1). The Court has considered Gonzalez’s range of possible recovery, the extent to which settlement avoids anticipated burdens and expenses of litigation, the seriousness of the risks each party faces, whether the settlement agreement is the product of arms-length bargaining between experienced attorneys, and the possibility of fraud or collusion. See *Fisher v. SD Prot. Inc.*, 948 F.3d 593, 600

(2d Cir. 2020). The Court agrees with Magistrate Judge Henry that the settlement amount is fair and reasonable in light of the parties' identified litigation risks, including disputes over the number of hours Gonzalez worked. (See R&R.) The Court also agrees that Gonzalez's attorney's fee is reasonable in light of his retainer agreement with Gonzalez, fees awarded in comparable cases in this district, and the fact that the requested fee falls below the lodestar amount. (*Id.*) Finally, the Court agrees that the proposed settlement does not impose an overbroad release or any other such problematic provision. (*Id.*)

Accordingly, for the reasons above and based on the factual findings and legal conclusions set forth in the Report and Recommendation and adopted in this Order, the parties' joint motion to approve the settlement agreement is granted. The parties are directed to file a stipulation of dismissal in accordance with Federal Rule of Civil Procedure 41(a)(1)(A)(ii) by March 21, 2024.

SO ORDERED.

Dated: March 14, 2024
Brooklyn, New York



KIYOKO A. MATSUMOTO
United States District Judge
Eastern District of New York